

# ORIGINAL

REGION-20 800 MHZ PUBLIC SAFETY LEGISLATIVE/REGULATORY AFFAIRS COMMITTEE



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JAN 12 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of )

Biennial Regulatory Review -- Amendment of )

Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, & )

101 of the Commission's Rules to Facilitate the )

Development and Use of the Universal Licensing )

System in the Wireless Telecommunications )

Services )

WT Docket No. 98-20

**REQUEST FOR JUDICIAL CLARIFICATION  
Or In The Alternative  
PETITION FOR PARTIAL RECONSIDERATION**

Submitted by:

**Region-20 800 MHz Public Safety Review Committee  
Legislative/Regulatory Affairs Committee  
Dr. Michael C. Trahos, D.O., NCE, CET - Chairman  
4600 King Street, Suite 6K  
Alexandria, Virginia 22302-1249**

January 12, 1999

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Date: January 12, 1999

I.

**INTRODUCTION**

1. Before the Federal Communications Commission (Commission) is this timely filed **Request for Judicial Clarification (Request)** or in the alternative **Petition for Partial Reconsideration (Petition)** to the **Report and Order<sup>1</sup> (ULS Order)** in this proceeding.

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<sup>1</sup> **REPORT AND ORDER**, WT Docket No. 98-20, FCC 98-234, September 17, 1998.

**REGION-20 800 MHZ PUBLIC SAFETY LEGISLATIVE/REGULATORY AFFAIRS COMMITTEE**

2. Pursuant to the authority given by the Commission under the *NPSAC Report and Order*<sup>2</sup>, the Region-20 800 MHz Public Safety Planning Committee was created to address the future communications needs and concerns of the PSRS users for Region-20. The obligations of that Committee included the submission to the Commission of a Region-20 800 MHz Public Safety Radio Communications Plan (Region-20 Plan)<sup>3</sup> and establishment of a Region-20 800 MHz Public Safety Review Committee (Committee) to oversee its implementation.

3. This Committee, representing the PSRS/governmental constituents for Region-20, hereby submits the following **Request/Petition** in response to the **ULS Order**, addressing those issues of concern and their effects upon Region-20 and its constituency.

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<sup>2</sup> **REPORT AND ORDER**, General Docket No. 87-112, FCC 87-359, November 24, 1987, 3 FCC Rcd, at 905, Para. 4 (*NPSAC Report and Order*).

<sup>3</sup> **WASHINGTON, D.C. METROPOLITAN AREA - REGION-20**, General Docket No. 90-7, DA 90-28, January 17, 1990.

**II. REQUEST FOR JUDICIAL CLARIFICATION**

4. In Comments submitted in this proceeding, Region-20 noted that if the Commission were to delete 47 CFR 95.53(f), non-Public-Safety General Mobile Radio Service (GMRS) entities would have unauthorized access to GMRS Public-Safety systems.<sup>4</sup> Region-20 further stated that “[s]uch unauthorized operations would be intolerable to Public-safety operations and could affect the prompt delivery and rendition of medical/emergency services to the public.”<sup>5</sup>

5. It is this issue of “unauthorized use” for which this **Request** focuses upon. Prior to the adoption of the **ULS Order**, 47 CFR 95.53(f) made the Commission’s GMRS rules in compliance with Title 18 United States Code Part 1 Chapter 47 Section 1029(a)(5)<sup>6</sup> et.al. With the Commission’s deletion of 47 CFR 95.53(f) via the **ULS Order**, the revised GMRS rules are now in apparent judicial noncompliance with 18 USC 1029.

6. 18 USC 1029(a)(5) speaks to the issue of “unauthorized use of telecommunications services”.<sup>7</sup> This federal statute is extensively used by the Cellular and PCS industry to prosecute unauthorized use and “theft-of-service”. The deletion of 47 CFR 95.53(f) results in the Commission sanctioning of unauthorized use and “theft-of-service” of Public-Safety GMRS systems.

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<sup>4</sup> **COMMENTS**, Region-20 Public Safety, WT Docket No. 98-20, May 7, 1998, Paragraph 9.

<sup>5</sup> **Ibid.**

<sup>6</sup> **18 USC 1029(a)(5).**

<sup>7</sup> **Ibid.**

**II.**

**CONCLUSION**

7. Before the Commission is this **Request** which asks for **Judicial Clarification** of the **ULS Order** concerning the deletion of 47 CFR 95.53(f) and the revised GMRS rules now being in apparent judicial noncompliance with 18 USC 1029(a)(5) et.al.

8. Should Commission review of this matter determine that 47 CFR Part 95 is indeed now in judicial noncompliance with 18 USC 1029(a)(5) et.al., then Region-20 asks that this **Request** be considered, in the alternative, as a **Petition for Partial Reconsideration** of the **ULS Order**, further requesting that 47 CFR 95.53(f) be reinstated.

9. Reinstatement of 47 CFR 95.53(f) is in the **public interest**.

Respectfully submitted,



Dr. Michael C. Trahos, D.O., NCE, CET  
Chairman - Region-20 800 MHz RPRC  
Legislative/Regulatory Affairs Committee

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